

1 TODD KIM  
2 Assistant Attorney General  
3 MARTIN F. McDERMOTT  
4 martin.mcdermott@usdoj.gov  
5 United States Department of Justice  
6 Environment & Natural Resources Division  
7 Environmental Defense Section  
8 4 Constitution Square  
9 150 M Street, NE  
10 Suite 4.147  
11 Washington, D. C. 20002  
12 Telephone: (202) 514-4122  
13 *Attorneys for Defendants*

13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 SOUTH COAST AIR QUALITY  
16 MANAGEMENT DISTRICT, EAST YARD  
17 COMMUNITIES FOR ENVIRONMENTAL  
18 JUSTICE, PEOPLE'S COLLECTIVE FOR  
19 ENVIRONMENTAL JUSTICE, and  
20 SIERRA CLUB,

21 Plaintiffs,

22 v.

23 UNITED STATES ENVIRONMENTAL  
24 PROTECTION AGENCY and MICHAEL S.  
25 REGAN, in his official capacity as  
26 Administrator of the United States  
27 Environmental Protection Agency,

28 Defendants.

Case No. 2:23-cv-02646-JLS-PD  
Case No. 2:23-cv-03545-JLS-PD  
(consolidated)

**JOINT MOTION TO ENTER  
CONSENT DECREE**

1 Plaintiff South Coast Air Quality Management District (“SCAQMD”) and  
 2 Plaintiffs East Yard Communities for Environmental Justice, People’s Collective for  
 3 Environmental Justice, and Sierra Club (collectively, “Environmental Plaintiffs”) and  
 4 Defendants the United States Environmental Protection Agency (“EPA”) and Michael  
 5 S. Regan, in his official capacity as EPA Administrator (collectively, the “Parties”)  
 6 hereby jointly move the Court to enter the attached proposed Consent Decree  
 7 (Exhibit 1 hereto). In support of this Joint Motion, the Parties state as follows:

8 1. Plaintiffs’ Complaints in these consolidated cases allege that EPA failed to  
 9 perform a duty mandated by CAA sections 110(k)(2)-(4), 42 U.S.C. §§ 7410(k)(2)-(4),  
 10 to take final action to approve or disapprove, or conditionally approve, in whole or in  
 11 part, a “SIP submittal” entitled “Final Contingency Measure Plan,” submitted to EPA  
 12 by the California Air Resources Board on or about December 31, 2019. SCAQMD  
 13 Compl. ¶ 12; Env. Compl. ¶ 42. Plaintiffs further allege that the Final Contingency  
 14 Measure Plan became complete by operation of law on July 1, 2020, and that EPA had  
 15 a mandatory duty to take final action on the SIP submittal by July 1, 2021. The relief  
 16 requested in the Complaints includes, among other things, an order from this Court  
 17 to establish a date certain by which EPA must fulfill its obligations.

18 2. The Parties reached a settlement of these cases and prepared a draft  
 19 Consent Decree effectuating that settlement, which provides that EPA will take final  
 20 action on the SIP submittal no later than July 1, 2024. The proposed Consent Decree,  
 21 if entered by the Court, will resolve all of Plaintiffs’ claims, other than attorneys’ fees  
 22 and costs.

23 3 Section 113(g) of the CAA, 42 U.S.C. § 7413(g), requires EPA to provide “a  
 24 reasonable opportunity by notice in the Federal Register to persons who are not  
 25 named as parties or intervenors to the action or matter to comment in writing” upon  
 26 the proposed Consent Decree. The proposed Consent Decree was noticed in the  
 27 Federal Register on January 18, 2024. *Proposed Consent Decree, Clean Air Act Citizen*  
 28 *Suit*, 89 Fed. Reg. 3,396-3,397 (Jan. 18, 2024). That notice and comment process is

1 now complete. EPA did not receive any comments that disclosed facts or  
2 considerations that indicate the Department of Justice or EPA should withhold their  
3 consent from the Consent Decree.

4 4. Through the Consent Decree, EPA and Plaintiffs indicated their  
5 agreement that the Consent Decree is fair, reasonable, and in the public interest.

6 WHEREFORE, the Parties respectfully move the Court to enter the proposed  
7 Consent Decree attached as Exhibit 1.

8 8

9 Respectfully submitted this 18<sup>th</sup> day of March, 2024 by:

10  
11 /s/ Martin F. McDermott

12 MARTIN F. McDERMOTT  
13 U.S. Department of Justice  
14 Environment & Natural Resources Division  
15 Environmental Defense Section  
16 4 Constitution Square  
17 150 M Street, N.E. Suite 4.147  
18 Washington, D.C. 20002  
19 Telephone (202) 514-4122  
20 martin.mcdermott@usdoj.gov

21 Of counsel:

22 JESSE LUEDERS, Office of Regional Counsel, U.S. EPA, Region IX

23 *Attorneys for Defendants*

24 /s/ Matthew D. Zinn

25 MATTHEW D. ZINN (State Bar No. 214587)  
26 Shutte, Mihaly & Weinberger LLP  
27 396 Hayes Street  
28 San Francisco, California 94102  
Telephone: (415) 552-7272  
zinn@smwlaw.com

1 *Attorney for Plaintiff South Coast Air Quality Management District*

2  
3 s/ Fernando Gaytan

4 FERNANDO GAYTAN

5 ADRIANO L. MARTINEZ

6 Earthjustice

7 707 Wilshire Boulevard, Suite 4300

8 Los Angeles, CA 90017

9 Telephone: 415-217-2025

fgaytan@earthjustice.org;

amartinez@earthjustice.org

10 *Attorneys for Plaintiffs East Yard Communities, et al.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of March, 2024, a true and correct copy of the foregoing joint motion was filed electronically with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

*/s/ Martin F. McDermott*